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January 28, 2002  
**VIA FACSIMILE (3 Pages)**

Thomas M. DiMauro, Esq.  
Johnson & Johnson  
DePuy AcroMed Inc.  
325 Paramount Drive  
Raynham, MA 02767-0350

Re: Right to Use Search – 2d Pre-filled Graft Chamber  
Your Ref: Letter of January 14, 2002  
Our Ref: DEPUY1-20001

Dear Mr. DiMauro:

Further to your request of January 14, 2002, a search has been conducted on the above-identified subject matter.

**Objective:**

The objective of the search is to locate active US, EPO and WIPO patents having claims directed to and references (database) disclosing a system combining the use of a pre-filled chamber with a graft delivery system which includes the use of a platelet concentrate which is platelet rich blood. The platelet concentrate is made using blood drawn from the patient which is treated with citrate anticoagulant, centrifuged to concentrate the platelets and then re-suspended into the platelet concentrate.

**Results of the Search:**

**Infringement**

US patent 4,485,096 issued to Bell on November 27, 1984 has claims which appear to be directed to a method of producing a biocompatible prosthesis which includes the use of a contractile agent such as blood platelets.

US patent 5,733,545 issued to Hood, III on March 31, 1998 has claims which appear to be directed to a wound sealant and method of processing blood which includes the use of concentrated platelets.

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The following patents are believed to be pertinent with respect to infringement:

<u>Patent Number</u>	<u>Inventor</u>	<u>Issue Date</u>
5,290,552	Sierra et al.	03/01/94
5,314,476	Prewett et al.	05/24/94
5,591,232	Rahimi et al.	01/07/97
6,311,690	Jefferies	11/06/01
US2001/0053547A1	Slichter	12/20/01

### Patentability

US patent 4,917,702 issued to Scheicher et al. on April 17, 1990 discloses a bone replacement material for filling bone and tooth defects which includes an organic binder such as autologous blood (see column 5 lines 10+).

US patent 6,326,018 issued to Gertzman et al. on December 4, 2001 discloses a surgical bone product and the use of a patient's own blood mixed with matrix material for providing new bone growth.

The following references were selected as being of possible additional interest:

<u>Patent Number</u>	<u>Inventor</u>	<u>Issue Date</u>
4,141,864	Rijke et al.	02/27/79
4,485,097	Bell	11/27/84
5,133,755	Brekke	07/28/92
5,073,373	O'Leary et al.	12/17/91
5,366,507	Sottosanti	11/22/94
5,366,508	Brekke	11/22/94
5,464,439	Gendler	11/07/95
5,510,396	Prewett et al.	04/23/96
5,683,406	Altobelli et al.	11/04/97
5,683,459	Brekke	11/04/97
5,755,792	Brekke	05/26/98
5,863,296	Orton	01/26/99
5,863,297	Walter et al.	01/26/99
6,203,573	Walter et al.	03/20/01
6,296,667	Johnson et al.	10/02/01
6,315,795	Scarborough et al.	11/13/01
US2001/0043940A1	Boyce et al.	11/22/01

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J. Clin. Apheresis 1998;12 (2):62-8  
Spine 2001 Dec 1;26(23):E552-6

**Summary:**

Allogenic graft and related systems which include the use of blood and concentrated platelets were found.

The field of search was directed to the following areas:

<u>Class</u>	<u>Subclasses</u>	
222	265, 275, 326, 327, 386	US and foreign
606	92, 93, 94	US and foreign
623	23.48, 23.51, 23.61, 23.62, 23.63 901, 902, 908, 915, 919	US and foreign

A computer search was done on the US and EPO databases on the EAST computer system and on the Medline online computer database using keywords such as "allogeneic", "allogenic", "platelets", "bone" and "graft".

Numerous references were uncovered and reviewed. Those considered pertinent are included herein.

If we may be of any further service, please advise.

Thanking you for giving us an opportunity to be of service to you.

Very truly yours,



Israel Agranov, Ph.D.  
Senior Vice President

IA/AH/ek  
Enclosures